

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

CAPELLA PHOTONICS, INC.,

Plaintiff

v.

INFINERA CORPORATION, TELLABS,  
INC., TELLABS OPERATIONS INC.,  
CORIANT AMERICA INC., and CORIANT  
(USA) INC.,

Defendants.

Civ. No. 2:20-cv-00077

**DECLARATION OF JOHN F. GAUSTAD IN SUPPORT OF  
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT OF (1) NO INFRINGEMENT  
OF THE ASSERTED CLAIMS UNDER THE DOCTRINE OF EQUIVALENTS AND  
(2) NO LITERAL INFRINGEMENT OF CLAIM 29**

I, John F. Gaustad, hereby declare as follows:

1. I am an attorney at the law firm of Baker Botts L.L.P. and am counsel for Defendants Infinera Corporation, Tellabs, Inc. Tellabs Operations, Inc., Coriant America, Inc., and Coriant (USA), Inc. in this lawsuit. I respectfully submit this declaration in support of Defendants' Motion for Summary Judgment of (1) No Infringement of the Asserted Claims Under the Doctrine of Equivalents and (2) No Literal Infringement of Claim 29. I declare that the following statements are true to the best of my knowledge, information, and belief, formed after a reasonable inquiry under the circumstances.

2. Attached as **Exhibit 1 [FILED UNDER SEAL]** hereto are excerpts from a true and correct copy of the Expert Report of Dr. Wayne H. Knox Regarding Infringement By Infinera

Corporation, Tellabs, Inc., Tellabs Operations Inc., Coriant America Inc., and Coriant (USA) Inc. served in the above-captioned case, dated March 15, 2021.

3. Attached as **Exhibit 2 [FILED UNDER SEAL]** hereto are excerpts from a true and correct copy of Plaintiff Capella Photonics, Inc.'s Disclosure of Asserted Claims and Infringement Contentions to Infinera Corporation, Tellabs, Inc., Tellabs Operations Inc., Coriant America Inc., and Coriant (USA) Inc. served in the above-captioned case, dated May 25, 2020.

4. Attached as **Exhibit 3** hereto are excerpts from a true and correct copy of Plaintiff Capella Photonics, Inc.'s Objections and Responses to Defendants' First Set of Interrogatories (Nos. 1-20) served in the above-captioned case, dated November 9, 2020.

5. Attached as **Exhibit 4 [FILED UNDER SEAL]** hereto is a true and correct copy of Exhibit C, Part 1 to the Expert Report of Dr. Wayne H. Knox Regarding Infringement By Infinera Corporation, Tellabs, Inc., Tellabs Operations Inc., Coriant America Inc., and Coriant (USA) Inc. served in the above-captioned case, dated March 15, 2021 (attached as **Exhibit 1**).

6. Attached as **Exhibit 5 [FILED UNDER SEAL]** hereto is a true and correct copy of Exhibit C, Part 2 to the Expert Report of Dr. Wayne H. Knox Regarding Infringement By Infinera Corporation, Tellabs, Inc., Tellabs Operations Inc., Coriant America Inc., and Coriant (USA) Inc. served in the above-captioned case, dated March 15, 2021 (attached as **Exhibit 1**).

7. Attached as **Exhibit 6** hereto is a true and correct copy of U.S. Patent No. RE47,905.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: April 26, 2021

Respectfully submitted,

/s/ John F. Gaustad  
John F. Gaustad

**CERTIFICATE OF SERVICE**

I hereby certify that counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on April 26, 2021. Sealed exhibits attached to this declaration were promptly served on counsel via e-mail.

By: /s/ John F. Gaustad  
John F. Gaustad

**CERTIFICATE OF AUTHORIZATION TO FILE UNDER SEAL**

I hereby certify that under Local Rule CV-5(d), exhibits attached to this declaration that were filed under seal were done so pursuant to the Court's Protective Order entered in this matter.

/s/ John F. Gaustad  
John F. Gaustad